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BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

DEPARTMENT OF TRANSPORTATION

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DOCKET SECTION

Application of

AMERICAN AIRLINES, INC.

**under 49 U.S.C. Sections 40109
for exemption (U.S.-Colombia
and route integration)**

Docket OST-97-2081 - 3

Application of

**AEROVIAS NACIONALES
DE COLOMBIA, S.A.**

for an exemption from 49 U.S.C. 41301

Docket OST-97-2083 - 3

Joint Application of

**AMERICAN AIRLINES, INC.
and
AEROVIAS NACIONALES
DE COLOMBIA, S.A.**

**for statements of authorization under
Parts 207 and 212**

Undocketed

**AMERICAN AIRLINES, INC., et. al.
and the TACA GROUP RECIPROCAL
CODE SHARE SERVICE PROCEEDING**

Docket OST-96-1700 - 10

**CONSOLIDATED ANSWER OF DELTA AIR LINES, INC.
IN OPPOSITION TO APPLICATIONS AND
IN THE ALTERNATIVE, MOTION TO CONSOLIDATE**

13 pgs

Communications with respect to this document should be addressed to:

D. Scott Yohe
Senior Vice President -
Government Affairs
DELTA AIR LINES, INC.
1629 K Street, N.W.
Washington, D.C. 20006
(202) 296-6464

and

John Varley
General Attorney
DELTA AIR LINES, INC.
Law Department #986
1030 Delta Boulevard
Atlanta, Georgia 30320
(404) 715-2872

Robert E. Cohn
SHAW, PITTMAN, POTTS & TROWBRIDGE
2300 N Street, N.W.
Washington, D.C. 20037
(202) 663-8060

Counsel for
DELTA AIR LINES, INC.

February 3, 1997

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.**

February 3, 1997

Application of AMERICAN AIRLINES, INC. under 49 U.S.C. Sections 40109 for exemption (U.S.-Colombia and route integration)))))))	Docket OST-97-2081
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**CONSOLIDATED ANSWER OF DELTA AIR LINES, INC.
IN OPPOSITION TO APPLICATIONS AND
IN THE ALTERNATIVE, MOTION TO CONSOLIDATE**

American Airlines, Inc. and its regional affiliates (“American”) and
Aerovias Nacionales de Colombia, S.A. and its regional affiliate (“Avianca”)

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have filed applications for exemptions and statements of authorization to permit them to implement reciprocal code-sharing services. Under the proposal, American would list its code on flights operated by Avianca (1) between Miami, New York, Newark, Los Angeles, and Dallas/Ft. Worth and Bogota, Cali, Barranquilla, Medellin, and Cartagena, and (2) between the named points in Colombia and numerous points in South America. Avianca would list its designator code on flights operated by American between the named points in Colombia and thirty (30) cities in the United States via five (5) U.S. gateways (Miami, Dallas/Ft. Worth, New York, Newark, and Los Angeles).

Delta Air Lines, Inc. ("Delta") hereby files this Consolidated Answer strongly opposing the American-Avianca applications. For the reasons stated below the applications should be denied. The proposed code-share alliance between American and Avianca would be inconsistent with the public interest and produce significant adverse consequences. If the Applications are not denied outright, in the alternative Delta requests that the American-Avianca applications should be consolidated into the proceeding established by the Department in Docket OST-96-1700 relating to the proposed alliance between American and six Central American carriers.

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In support of this Answer and Contingent Motion, Delta states the following:

1. The American-Avianca applications are part of a systematic effort by American to strengthen its dominant position and solidify its stranglehold over U.S.-Latin America markets. This application represents American's latest effort to join forces with Latin American carriers and must be examined in the context of American's pending application to establish a code-share alliance with six dominant foreign-flag carriers comprising the TACA Group which serve all of the major Central American markets.

2. The earlier American-TACA group alliance proposal involves cooperation and coordination between the dominant U.S.-flag carrier -- American -- and the six dominant foreign flag-carriers serving Central America, which in combination control 70% of all nonstop service in the relevant markets. The Department instituted an investigation of the American-TACA alliance determining that "the arrangement presents serious competitive issues that need investigation before we can conclude approval will be consistent with the public interest." The Department further noted the "dominant positions held by American and the foreign carriers involved in the alliance in the Central

American market”, underscoring that “those carriers were the largest carriers in the markets at issue, and American was the only U.S. airline with a hub at Miami, the dominant gateway for U.S.-Central America service.” See Order 97-1-15 at 4, Order 96-11-12.

3. The American-Avianca applications also raise “serious competitive issues” that warrant close scrutiny. Colombia is on the northern tip of South America and is the country next adjacent to the Central American countries that are the subject of the American-TACA Alliance. Similar to the American-TACA arrangement, American and Avianca are the two dominant carriers serving the U.S.-Colombia market. Significantly, U.S.-Colombia is one of the most restricted markets in Latin America. The U.S.-Colombia bilateral agreement restricts U.S.-carrier designations and frequencies. Only two U.S.-carriers are allowed under the Colombia bilateral arrangement to serve the market and U.S.-flag services are subject to significant frequency limitations. American holds almost 70% of the U.S.-flag frequencies and provides almost 70% of U.S.-flag services. Avianca, the dominant Colombia carrier, similarly holds almost 70% of the foreign-flag frequencies. Together, American and Avianca would control 67% of the U.S.-Colombia frequencies and flights. In many city-pairs the combination would offer the only service.

4. The Department should disapprove the formation of an alliance by the dominant U.S.-flag carrier and the dominant foreign carrier, given the highly restrictive bilateral agreement between the United States and Colombia, which limits designations and frequencies, and prohibits access by any additional U.S. carriers.

5. The American-Avianca arrangement appears to involve more than just code-sharing. The agreement, by its terms, contemplates substantial cooperation and coordination in several significant areas, including coordination of schedules, and inventory (Sections 2.0 and 3.0), coordination of marketing and product display (Section 4.0) and sharing of marketing and traffic information (Section 4.3). In the area of marketing, the agreement provides that the “Cooperative Service Flights” (which include all flights operated by both carriers between the United States and Colombia) “shall be marketed jointly by the parties” and that “the parties shall jointly develop an annual marketing and sales action plan” that would “take into account the following: product, market, objectives, performance measurements and reporting, strategies, tactics, activity plans, communications plans, and budgets.” Section 4.1, emphasis added. In addition, the American-Avianca agreement provides that the carriers shall “also actively consider, and endeavor to develop, opportunities for expanding the

scope of the relationship between American and Avianca.” Section 21.2. The Department should carefully review the proposed American-Avianca agreement which contemplates broad-based coordination and cooperation of many activities that go to the heart of the carriers’ competitive decisionmaking.

6. The proposed arrangement will substantially eliminate competition between direct competitors, and by virtue of the extraordinary dominant position of the alliance, foreclose the ability of other U.S. carriers to institute meaningful competition between the United States and Colombia and in the broader U.S.-Latin America marketplace. An agreement by American with Avianca would likely foreclose a U.S. code-share relationship with the leading carrier from Colombia, effectively eliminating competition from other carriers.

7. The proposed American-Avianca alliance would provide little in the way of meaningful consumer benefits to offset the substantial reduction in competition between the United States and Colombia. All of the beyond-Colombia cities to which American proposes to display its code on Avianca flights already receive service by American that is substantially superior to the proposed connecting service -- in many cases American provides nonstop service to those destinations. While American’s current service to Colombia is limited

to Miami, that is primarily the product of the restrictive bilateral agreement. Neither Avianca nor American should be allowed to circumvent the bilateral limitations, while other U.S. carriers are restricted from serving the market. Given the paucity of consumer benefits, the real purpose of the American arrangement is to permit American to join forces with its principal foreign-flag rival in order to reduce competition.

8. Under the current restrictive bilateral regime, Avianca's request for broad access to the U.S. market must be rejected. Avianca's suggestion that the existing bilateral agreement provides "a firm basis for granting this authority" is, in a word, laughable. There is simply no public policy basis that supports the grant of Avianca's request for virtually unrestricted access to the U.S. market. While Avianca cites to the Department's "Cities Program," that initiative is not applicable to the American-Avianca applications.

9. Finally, it must be emphasized that even if Colombia were to agree to an open skies regime, the degree of domination by the two largest U.S. and foreign competitors of flights, services, and traffic would preclude approval of the alliance as a matter of competition law and international aviation policy.

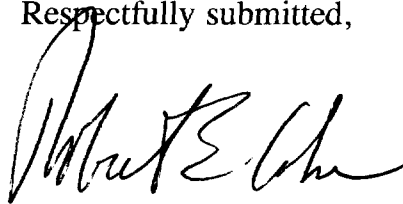
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10. In summary, approval of the American-Avianca application would preclude any realistic prospect for new entry by other U.S. carriers on the affected routes, given the domination of the combined operations. Substantial barriers to entry including bilateral restrictions and economic considerations would allow American and Avianca to exercise unchecked market power to the detriment of the traveling and shipping public. The adverse competitive effects that would result from the American-Avianca proposal would be enormous. Consequently, the applications should be denied because they are inconsistent with the public interest and with the Department's international policy objectives.

11. In the alternative, Delta hereby moves that the applications be consolidated in Docket OST-96-1700 with the Department's investigation concerning the American-TACA Group Alliance. The issues involved in that proceeding and this one are virtually identical. If the American-Avianca applications are not denied, they should be considered together with American-TACA.

WHEREFORE, Delta urges the Department to deny the above-captioned applications filed by American and Avianca, or alternatively consolidate the applications with the applications of American-TACA in Docket OST-96-1700.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert E. Cohn", written over a horizontal line.

Robert E. Cohn
SHAW, PITTMAN, POTTS & TROWBRIDGE
2300 N Street, N.W.
Washington, D.C. 20037
(202) 663-8060

Counsel for
DELTA AIR LINES, INC.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Consolidated Answer of Delta Air Lines, Inc. was served on this 3rd day of February, 1997, on the following parties:

R. Bruce Keiner
Crowell & Moring
1001 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Joel Stephen Burton
Ginsburg, Feldman & Bess, Chartered
1250 Connecticut Avenue, N.W.
Suite 700
Washington, D.C. 20036

Robert E. Cohn
Shaw, Pittman, Potts & Trowbridge
2300 N Street, N.W.
Washington, D.C. 20037

John L. Richardson
Seeger Potter Richardson Luxton
Joselow & Brooks
2121 K Street, N.W.
Suite 700
Washington, D.C. 20037

Megan Rae Poldy
Associate General Counsel
Northwest Airlines, Inc.
901 15th Street, N.W.
Suite 310
Washington, D.C. 20005

Richard P. Taylor
Steptoe & Johnson
1330 Connecticut Avenue, N.W.
Washington, D.C. 20036

Bruce Rabinovitz
Ginsburg, Feldman & Bress, Chartered
1250 Connecticut Avenue, N.W.
Suite 700
Washington, D.C. 20036

Nathaniel P. Breed, Jr.
Shaw, Pittman, Potts & Trowbridge
2300 N Street, N.W.
Washington, D.C. 20037

William H. Callaway, Jr.
Zucker, Scoutt & Rasenberger, L.L.P.
888 17th Street, N.W.
Washington, D.C. 20006

Pierre Murphy
2445 M Street, N.W.
Suite 260
Washington, D.C. 20037

Vance Fort
Worldcorp, Inc.
13873 Park Center Road
Suite 490
Herndon, VA 22071

U.S. Transcom/TCJ5
Attention: Air Mobility Analysis
508 Scott Drive
Scott AFB, IL 62225

Carl B. Nelson, Jr.
Associate General Counsel
American Airlines, Inc.
1101 17th Street, N.W.
Suite 600
Washington, D.C. 20036

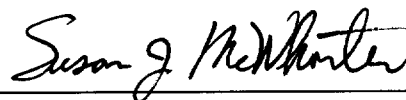
Suzette Matthews
Bernstein & Matthews
5649 John Barton Payne Rd.
Marshall, Va. 22115

Jeffrey N. Shane
Wilmer, Cutler & Pickering
2445 M Street, N.W.
Washington, D.C. 20037

Roger W. Fones, Chief
Transportation, Energy & Agriculture Section
Antitrust Division
Department of Justice
325 7th Street, N.W.
Washington, D.C. 20520

Marshall S. Sinick
Squire, Sanders & Dempsey
1201 Pennsylvania Ave., N.W.
Suite 400
Washington, D.C. 20004

Robert D. Papkin
Charles F. Donley II
Squire, Sanders & Dempsey
1201 Pennsylvania Ave., N.W.
P.O. Box 407
Washington, D.C. 20044



Susan J. McWhorter